

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 1:23-cv-00853-DAE

GREG ABBOTT, in his capacity as GOVERNOR
OF THE STATE OF TEXAS, and THE STATE
OF TEXAS,

Defendants.

PROPOSED ORDER

Upon consideration of the United States’ Motion to Exclude Certain Opinions of Captain Thomas Ciarametaro (“Motion”) and opposition filed thereto, and on good cause having been shown, it is on this ____ day of _____ 2024 hereby:

ORDERED that the United States’s Motion is GRANTED; and it is further

ORDERED that Capt. Thomas Ciarametaro is precluded from offering the following testimony:

- That the floating barrier is not a “structure” under the Rivers and Harbors Act. Ciarametaro Report at 28, 32. This opinion was influenced by counsel for Texas and is an improper legal conclusion.
- That improvements to allow navigation are infeasible. Ciarametaro Report at 24-26. Capt. Ciarametaro lacks the expertise to testify to this opinion.
- That the floating barrier does not obstruct navigation. Ciarametaro Report at 32-33. Capt. Ciarametaro lacks the expertise to testify to this opinion, and it is an improper legal conclusion.

The Honorable Dustin M. Howell
United States Magistrate Judge